

## CCRB INVESTIGATIVE RECOMMENDATION

|  |   |                            |   |                                    |                                 |
|--|---|----------------------------|---|------------------------------------|---------------------------------|
| Investigator:<br>Tarini Arogyaswamy              | Team:<br>Team # 2                               | CCRB Case #:<br>200100862  | <input checked="" type="checkbox"/> Force             | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S.   |
|  |   |                            | <input checked="" type="checkbox"/> Abuse             | <input type="checkbox"/> O.L.      | <input type="checkbox"/> Injury |
| Incident Date(s)<br>Friday, 01/19/2001 6:30 PM   | Location of Incident:<br>§ 87(2)(b)             | Precinct:<br>52            | 18 Mo. SOL<br>7/19/2002                               | EO SOL<br>7/19/2002                |                                 |
| Date/Time CV Reported<br>Mon, 01/22/2001 4:59 PM | CV Reported At:<br>Police Commissioner's Office | How CV Reported:<br>E-mail | Date/Time Received at CCRB<br>Wed, 02/07/2001 9:27 PM |                                    |                                 |

| Complainant/Victim | Type       | Home Address |
|--------------------|------------|--------------|
| § 87(2)(b)         | § 87(2)(b) | § 87(2)(b)   |
| § 87(2)(b)         | § 87(2)(b) | § 87(2)(b)   |

| Witness(es) | Home Address |
|-------------|--------------|
| § 87(2)(b)  | § 87(2)(b)   |

| Subject Officer(s)   | Shield | TaxID  | Command |
|----------------------|--------|--------|---------|
| 1. POM Erick Acevedo | 12656  | 901082 | 052 PCT |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|--------------------|-----------|--------|----------|
| 1. POM Dale Walker | 30056     | 926276 | 052 PCT  |

| Officer(s)            | Allegation  | Investigator Recommendation |
|-----------------------|---|-----------------------------|
| A . POM Erick Acevedo | Abuse of Authority: PO Acevedo stopped and questioned § 87(2)(b).           | A . § 87(2)(g)              |
| B . POM Erick Acevedo | Abuse of Authority: PO Acevedo threatened § 87(2)(b) with the use of force. | B . § 87(2)(g)              |
| C . POM Erick Acevedo | Force: PO Acevedo grabbed and pushed § 87(2)(b)'s hand away from his coat.  | C . § 87(2)(g)              |
| § 87(4-b) § 87(2)(g)  | § 87(2)(b)  | § 87(2)(g)                  |
| E . POM Erick Acevedo | Other:  | E . § 87(2)(g)              |

## Synopsis

§ 87(2)(b) made this complaint on behalf of his son, § 87(2)(b) (old). § 87(2)(b) was standing in front of his friend's § 87(2)(b) s) apartment building at § 87(2)(b). § 87(2)(b) was watching § 87(2)(b) s brother's car while § 87(2)(b) went to get his brother's car keys because the window was open. While § 87(2)(b) was waiting for § 87(2)(b) he was stopped and questioned by PO Acevedo. PO Acevedo's partner, PO Walker, witnessed the interaction between PO Acevedo and § 87(2)(b) but PO Walker didn't say anything throughout the entire incident.

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] § 87(4-b) § 87(2)(g)

[REDACTED]

[REDACTED]

### Summary of Complaint

§ 87(2)(b) was interviewed on 2/23/01 and a summary of the interview report is included in Encl. 6 A-E. § 87(2)(b) was unsure about the date of the incident. § 87(2)(b) said that he had just left his house at § 87(2)(b) and was walking up Marion Avenue with his friend, § 87(2)(b) to § 87(2)(b)'s apartment building at § 87(2)(b). Marion Avenue is a one way street, which has parked cars on both sides of the street and only one driving lane on which two cars can pass each other but cannot move together on. In front of § 87(2)(b)'s apartment building, § 87(2)(b) saw that § 87(2)(b)'s brother's car window was open and so he told § 87(2)(b) to go and get his brother's car keys. § 87(2)(b) stood next to the car, 1993 black Nissan Altima, and waited for § 87(2)(b) to return. He was standing there for a minute when he saw a marked police car drive by and stop at the end of the street. Since it was raining and § 87(2)(b) had a little cold, he decided to walk up the two steps to the glass door (doesn't lock) leading into the vestibule. There was a light halfway between his house and § 87(2)(b)'s apartment building and the vestibule was also well lit. The building is about 10 ft. from where the car was parked.

After about five minutes, § 87(2)(b) rang § 87(2)(b)'s apartment's bell #§ 87(2)(b). He then saw the police car drive back down the wrong way on Marion Avenue and stop behind § 87(2)(b)'s brother's car. The officer, PO Acevedo § 87(2)(b) looked at his badge-hispanic, male, 6 ft., thick-bigger than PO 2, uniformed and wearing a hat, and had a moustache) gestured with his finger to § 87(2)(b) to come out to the car. At first, § 87(2)(b) didn't know what the PO was saying and he didn't want to go out into the rain. But then, PO Acevedo gestured to him again and so he walked out and down the

steps with his hands in his pockets. When the officer yelled to him to take his hands out of his pockets, § 87(2)(b) took them out and placed them on the front of his jacket pockets. He was holding the pockets with his thumbs but his hands were outside.

§ 87(2)(b) said that he understood PO Acevedo telling him to take his hands out of his pockets because he would feel the same way if someone walked towards him with their hands in their pockets. As he walked over to the police car, § 87(2)(b) said that he was angry but didn't show attitude. PO Acevedo asked him what he was doing by the car and § 87(2)(b) told him that he was just watching the car because the car window was open. PO Acevedo asked him if he had a problem and § 87(2)(b) said, "Nah, I don't like being called out to cop cars when it is raining." Then, PO Acevedo said, "How about I step out and I talk to you this way." § 87(2)(b) said, "Ok you step out if you are going to step out." PO Acevedo stepped out of the driver's side of the car and told § 87(2)(b) that he had told him to take his hands out of his pockets. Then, PO Acevedo used his right hand and grabbed § 87(2)(b)'s right hand between his hand and wrist and moved it away from § 87(2)(b)'s pocket. PO Acevedo asked § 87(2)(b) again what he was doing. When § 87(2)(b) told him again, PO Acevedo said that it looked too suspicious that when they went up the block, he was standing by the car and then when they came back, he was inside the building. § 87(2)(b) said that he had gone inside the building because it was raining and because he had a little cold.

Then, PO Acevedo's partner, PO 2 (black, male, 6'2"-6'3", thin, moustache, uniformed and wearing a hat) stepped out of the passenger side of the car and stood in front of the car. PO Acevedo asked him where his friend lived and § 87(2)(b) told him which building and apartment his friend lived in. He asked § 87(2)(b) where he lived and also asked him for his ID. § 87(2)(b) showed PO Acevedo his school ID but PO Acevedo wanted something with an address on it. So, § 87(2)(b) gave PO Acevedo his license. PO Acevedo asked § 87(2)(b) where he lived and § 87(2)(b) pointed to his house. PO Acevedo said, "Don't talk to officers whatever way you want to because one day you are going to talk to the wrong officer the wrong way." PO Acevedo said, "You should be glad that I am not grabbing you and pulling you into the building. Don't get your attitude with me. I will kick your ass." § 87(2)(b) said, "You will kick my ass," and PO Acevedo said, "Yeah, I will kick your ass." Then, § 87(2)(b) checked his badge. PO Acevedo said, "You should be glad it is me stepping out here and you are who you are. One day you are going to cross the wrong cop and it is going to be late or whatever. You are lucky I am not dragging you into the building and doing what I have to do when nobody is looking."

PO 2 didn't come near him and PO Acevedo was never involved in their conversation. § 87(2)(b) said that he didn't yell or scream or argue with PO Acevedo at any point. § 87(2)(b) had been talking to PO Acevedo for about 3-4 minutes when § 87(2)(b) came out of the building, stood behind § 87(2)(b) and started laughing. Soon after, PO Acevedo and PO 2 got in their car and drove away.

### **Results of Investigation**

§ 87(2)(b) stated that near the end of the incident, his friend, § 87(2)(b) came out of the building. According to § 87(2)(b) and PO Walker,

§ 87(2)(b) was only present for a few minutes before the officers drove away in their RMP. Numerous attempts to contact § 87(2)(b) were made during the period 3/12/01 to 3/20/01. Messages were left for him at his house and also with § 87(2)(b) (Encl. 13A). In addition, a please call letter was also sent to him. § 87(2)(b) never made contact with the investigator.

§ 87(2)(b) stated that he knew PO Acevedo's name because he looked at his badge. The Roll call, stop and frisk report & log, and the memo books of PO Acevedo and that of his partner, were requested from the 52<sup>nd</sup> Precinct. According to the roll call (Encl. 12 A-F) and PO Acevedo's memo book entry for 1/19/01 (Encl. 7 A-C), PO Acevedo was working with PO Walker in Response Auto 1251. There was no record of PO Acevedo or PO Walker preparing a Stop and Frisk Report on § 87(2)(b) (log, Encl. 11 A-B).

PO Acevedo was interviewed on 4/11/01 (Encl. 8 A-D). He stated that on 1/19/01, upon leaving the Stationhouse, he went on routine patrol with PO Walker. He said that he was travelling southbound on Marion Avenue and was about twenty feet from the intersection of Marion Avenue & 197<sup>th</sup> Street, when he saw a black car parked at a fire hydrant in front of a building on the right side of the street. PO Acevedo said although it was dark, it wasn't pitch black and that there was street lighting (he wasn't sure where exactly). PO Acevedo wasn't sure if it was raining or snowing or if there was snow on the street.

PO Acevedo said that Marion Avenue is a one way street going northbound. Cars are parked on left and right and if one car is double-parked, then another car can drive past but if two cars are double-parked, then a car can't pass.

PO Acevedo stated that the first thing that PO Acevedo noticed was not the black car or the fire hydrant but § 87(2)(b) who was crouched down in the middle of the passenger side of the car. The black car was parked to his right and when he saw a movement from the side of the car, he slowed down. Before reaching the car, from the corner of his eye, PO Acevedo saw § 87(2)(b) crouched down and then when he was parallel to the car, he saw § 87(2)(b) get up and then crouch down again. PO Acevedo drove past the black car and in the rear view mirror, he saw § 87(2)(b) crouched down. PO Acevedo drove past the intersection of Marion Avenue and 197<sup>th</sup> Street (there is no light or stop sign there). PO Acevedo decided to come back because he wanted to observe the person a little more and see what he was doing. At the next intersection, which was Marion Avenue and 196<sup>th</sup> Street, PO Acevedo made a right and then he made another right at the intersection of 196<sup>th</sup> Street and Bainbridge Avenue (1 way going northbound). Finally, he made another right at 197<sup>th</sup> Street (2 ways) and went eastbound towards Marion Avenue (2 blocks away because there is a small street in between). PO Acevedo was driving in the middle of the two way street. He slowed down at the stop sign and saw that § 87(2)(b) was crouched down next to the car but he wasn't crouching down and getting up at this point.

At that point, PO Acevedo made a left onto Marion Avenue, which is one way going northbound (PO Acevedo was driving down the opposite way of the street), and drove past

the black car to observe § 87(2)(b). He saw § 87(2)(b) look at him and then he stopped his car just to its rear (about 15-20 ft from the intersection). PO Acevedo saw that § 87(2)(b) was about 2-3 ft. away from the building and was about to enter the building. PO Acevedo rolled down his window and called out to § 87(2)(b) "Guy!," to get his attention. § 87(2)(b) looked back and then turned towards the building. PO Acevedo said, "Guy, do me a favor and come over here." § 87(2)(b) turned back around towards PO Acevedo and then he continued toward the building. At that point, PO Acevedo got out of his vehicle and approached § 87(2)(b). PO Acevedo said that PO Walker also exited the vehicle at this time but he couldn't remember if PO Walker went to the door of the vestibule with him or not. PO Acevedo couldn't recall if PO Walker had any interaction with § 87(2)(b).

By then, § 87(2)(b) was past the first door into the building, was in the vestibule and climbing the steps that led to the second door directly into the building. PO Acevedo called § 87(2)(b) again and said, "Guy, come over here." § 87(2)(b) turned around to PO Acevedo and said, "What do you want, what is it?" PO Acevedo said, "Do me a favor, come out of the building." When asked why he wanted § 87(2)(b) to come out of the building, PO Acevedo said, "Because I didn't want any type of allegations that I did anything to him where nobody can see so then I would be in the public view." When asked if there was anyone else outside the building who would have been able to see, PO Acevedo responded that he didn't see anyone outside.

Then, PO Acevedo and § 87(2)(b) went outside the building. PO Acevedo said that he stood on one side of § 87(2)(b) and PO Walker stood on the other side of § 87(2)(b). PO Acevedo asked § 87(2)(b) what he was doing slouched down by the side of the car. He also asked him whose car it was and what he was doing there. PO Acevedo said that § 87(2)(b) told him that he was watching his friend's car. When asked if he asked § 87(2)(b) where his friend was, PO Acevedo said that he did. Further, when asked what § 87(2)(b) had told him, PO Acevedo said that § 87(2)(b) hadn't told him where his friend was. PO Acevedo couldn't remember if § 87(2)(b) said that he would get the owner of the car.

PO Acevedo was asked when and if he had asked § 87(2)(b) for ID. PO Acevedo said that after they came out of the building, he asked § 87(2)(b) if he had ID on him. When asked if § 87(2)(b) provided ID, PO Acevedo said that he didn't. When asked if § 87(2)(b) had given him a reason for not producing ID, PO Acevedo said that he had but he didn't remember what he had said. When asked if he had just left it at that or had pursued further for ID, PO Acevedo said, "I asked him his name and he told me his name and that's it." When this investigator said, "And you didn't feel like you really needed the ID," PO Acevedo said, "No." The investigator asked him what brought him to the stage where he was fine with § 87(2)(b) just telling him his name and why he didn't need official ID that showed § 87(2)(b)'s date of birth or address and PO Acevedo said, "I believed him....that that was his name. That was how I felt at the time. No specific reason. I believed him at the time."

§ 87(2)(b) asked PO Acevedo what he had done. PO Acevedo explained to § 87(2)(b) that he wanted to know what he was doing at the side of the car because it was parked at a hydrant. PO Acevedo also said that the passenger side window was half-open and he wanted to see if § 87(2)(b) was breaking into the car. PO Acevedo said

that the only other words he said to § 87(2)(b) were when he told him to keep his hands out of his pockets because § 87(2)(b)'s hands kept going into his front pant pockets. PO Acevedo told § 87(2)(b) to keep his hands out of his pockets approximately 3 times. When asked if he was scared for his safety, PO Acevedo said, "I was worried if he had any weapons on him and that he kept putting his hands back in. Yes I was." PO Acevedo said that he didn't grab § 87(2)(b)'s hand and move it away from his pocket. But, later at the end of the interview, when PO Acevedo was asked the allegations, he said that he didn't remember if he had grabbed § 87(2)(b)'s hand and moved it away from his pocket.

PO Acevedo said that at some point, he said to § 87(2)(b) "When an officer speaks to you and gives you an order, you should comply. I said, I am trying to explain to you why I stopped you and why I asked you about the car. I said other officers aren't going to be as nice as me." When asked if he had told § 87(2)(b) "You should be glad I am not grabbing you. I will kick your ass," PO Acevedo said that he didn't remember.

PO Acevedo said that he didn't frisk § 87(2)(b) because, "At that point, I had the right to grab him up. There was two of us and we were both in positions where if anything had ensued, I believe we could have handled it." Before the interview, PO Acevedo said that he didn't remember if he had filled out a 250 or not. The investigator asked him what the guidelines for filling out a 250 are and PO Acevedo said, "Frisking, questioning, stopping." When the investigator asked if a stop and question without a frisk warranted a 250, PO Acevedo said that it did. In addition, PO Acevedo was asked if an individual had to produce ID for a 250 to be filled out and he said no

PO Acevedo said, "I let him go because after a while when I asked him what apartment he lived in, he said he lived in that building and then he gave me the apartment. I said that we will go up now and speak to your parents. At that point, he is telling me he lives here and he is giving me an apartment, I believed that he lived there." PO Acevedo said that he didn't go to § 87(2)(b)'s apartment even though § 87(2)(b) said that he would take him there because he didn't feel it necessary. PO Acevedo said, "If he gave me the apartment number there and was willing to take me up, I felt that he was telling the truth." When asked if he believed that § 87(2)(b) was telling the truth because of his demeanor or because he gave him the apartment number, PO Acevedo said that it was because § 87(2)(b) gave him the apartment number. When asked about § 87(2)(b)'s demeanor, PO Acevedo said that he was upset but wasn't yelling. PO Acevedo said that § 87(2)(b) was rolling his eyes and sucking his teeth.

PO Acevedo said that he checked the vehicle "real quick" and since there was no ignition popped and since everything besides the window was alright (window was half open), he decided not to give § 87(2)(b) a parking ticket for parking in front of a hydrant. PO Acevedo said that since the black car was parked in front of a fire hydrant, that was circumstance for giving a ticket. Further, PO Acevedo said that he and his partner had discretion and they didn't, "feel the need to burden this person with a summons. My main concern was to find out if anybody was breaking into the vehicle. When I found out that my observation wasn't what it was, I didn't want to burden the person anymore with a parking ticket since I already stopped and asked him what he was doing."

PO Acevedo said that his conversation with § 87(2)(b) outside the building lasted about one minute and his total interaction with § 87(2)(b) (starting when he was about to go into the vestibule) lasted about 3 minutes. PO Acevedo said that at the end of the conversation, § 87(2)(b) walked towards the building and he got into his RMP. Once he got into his RMP, he couldn't see § 87(2)(b) anymore. PO Acevedo said that the car was still there. PO Acevedo said that there was no other civilian around during his entire interaction with § 87(2)(b).

PO Acevedo's partner on 1/19/01 was PO Dale Walker. He was interviewed on 4/20/01 (Encl. 10 A-D). He had no entries regarding this incident in his memo book. PO Walker stated that after meal on 1/19/01, he was assigned with PO Acevedo to patrol Sector Mike in RMP 1251. PO Acevedo and PO Walker drove on Marion Avenue, which is a one way street with 1 driving lane and 2 parking lanes. PO Walker said that when they first drove past the location, he didn't notice anything and PO Acevedo didn't say anything. PO Walker said that it was dark and but he believes that there was a street light at the corner. PO Walker didn't know if it was raining that night.

At the intersection, they went straight and at the next block, they turned to come back. It had taken them about 2 minutes to return to the location. They stopped at the intersection to go back onto Marion Avenue but since Marion Avenue is a 1 way street, they made a slight right turn and then reversed onto Marion Avenue. They reversed about 3 car lengths and at this point, PO Walker saw a guy § 87(2)(b) through a glass door, standing in the hallway of a building. PO Walker stated that § 87(2)(b) was just standing there and wasn't doing anything. PO Walker said that § 87(2)(b) didn't see them.

PO Acevedo stopped the car and double-parked it in the street. PO Acevedo started exiting the driver's side of the car. PO Acevedo pointed to § 87(2)(b) with his fingers and said, "Hey, guy, come here, come here." PO Walker said that § 87(2)(b) started pointing to himself in a way that according to PO Walker asked, "Me, is it me that you are pointing to." PO Acevedo just pointed once not numerous times at § 87(2)(b) and § 87(2)(b) started walking over to the RMP once he realized that PO Acevedo had been pointing to him. By now, PO Acevedo was standing near the front of the RMP's passenger door, which was by the curb of the sidewalk. § 87(2)(b) was standing in the space between the 2 parked cars and was about 10 ft. from the RMP and 5 ft. from PO Acevedo.

While § 87(2)(b) was walking over, PO Walker got out of the car and went and stood at the back passenger side of the RMP. When PO Walker was asked if he was always standing in a position from which he could hear the conversation between PO Acevedo and § 87(2)(b) he said that he was.

PO Acevedo asked § 87(2)(b) if he lived there and what he was doing there. § 87(2)(b) said that he was waiting for a friend. PO Acevedo asked him again if he lived there and § 87(2)(b) replied hesitantly that he didn't. When asked if he feared for his safety due to § 87(2)(b) or his attitude, PO Walker said that he was just alert and § 87(2)(b)'s attitude didn't make him fear for his safety. PO Walker said that he

found § 87(2)(b)'s behavior suspicious to a point because he didn't really want to listen to what PO Acevedo was saying and was hesitant whenever he was asked anything.

PO Acevedo asked § 87(2)(b) if he had any ID on him and § 87(2)(b) mumbled under his breath that he did. PO Acevedo asked to see his ID and § 87(2)(b) had an attitude and was hesitant about showing ID. Then, § 87(2)(b) took out his wallet and very slowly handed over his ID to PO Acevedo. PO Walker said that he didn't see the ID that § 87(2)(b) produced. He said that PO Acevedo didn't write down anything about the ID or comment about it. PO Walker stated that § 87(2)(b) showed only one ID. PO Acevedo then told § 87(2)(b) that he had called him over because he had seen him looking very suspicious standing next to the car. PO Acevedo said to § 87(2)(b) "You should be lucky that I didn't come and drag you out of the building and harass you and give you a hard time. I just came to ask you some questions. You seemed to have a problem with that. You got to be careful with that because sometimes you might come across police officers that are not so nice as I was to you." When asked what his definition of an attitude problem is, PO Walker said that § 87(2)(b) was holding back and didn't want to say anything. § 87(2)(b) made a lot of facial expressions. He was very hesitant and slow as far as everything that PO Acevedo asked him. He didn't want to listen to what PO Acevedo was asking him or saying to him. PO Walker said that he didn't say anything.

§ 87(2)(b) wanted to know why he had been stopped and PO Acevedo explained to § 87(2)(b) that he had looked suspicious standing next to the car. PO Acevedo told § 87(2)(b) that it was his job to see what was going on. PO Acevedo also mentioned to § 87(2)(b) that if it had been § 87(2)(b)'s car, he would want PO Acevedo to find out why someone was hanging around his car.

When asked if PO Acevedo got angry because of § 87(2)(b)'s attitude, PO Walker said that he didn't but his tone of voice may have taken on a slightly higher level. PO Walker said that PO Acevedo may have spoken louder so that § 87(2)(b) could hear him but he wasn't yelling. When asked if § 87(2)(b)'s tone was loud as well, PO Walker said that it wasn't. He said that § 87(2)(b) was hesitating, mumbling, kissing his teeth and shrugging his shoulders. PO Walker said that § 87(2)(b)'s demeanor wasn't aggressive.

PO Walker said that he couldn't remember if § 87(2)(b) gave any explanation as to why he was standing there but he said that § 87(2)(b) said that he was waiting for a friend. When asked if PO Acevedo asked § 87(2)(b) who the friend was, PO Walker said that he didn't. § 87(2)(b) told PO Acevedo that he hadn't been there long. § 87(2)(b) said that his friend was upstairs. PO Acevedo didn't say that he wanted to see the friend. When asked if § 87(2)(b) ever mentioned where he lived or his street address or his apartment number, PO Walker said that he didn't.

PO Acevedo gave § 87(2)(b) his ID back and PO Walker said that just as they got back into their RMP, he saw another guy came out of the building. PO Walker said that he knew that the guy was a friend of § 87(2)(b)'s because of their conversation. § 87(2)(b)'s friend stood on the edge of the sidewalk, which was about 5 ft. from PO Acevedo. § 87(2)(b) explained to the friend as to what was going on and why he was



being questioned. § 87(2)(b) and his friend were standing in front of the vehicle when PO Walker and PO Acevedo drove off in their RMP. Neither PO Acevedo nor PO Walker had any conversation with the friend. PO Walker didn't see anybody else.

When asked if PO Acevedo instructed § 87(2)(b) to do anything specific, PO Walker said that he didn't. When asked if he saw § 87(2)(b)'s hands, PO Walker said that § 87(2)(b)'s hands were by his side. PO Walker said that PO Acevedo didn't tell § 87(2)(b) to move his hands. When asked if he saw PO Acevedo grab § 87(2)(b)'s hand and move it away, PO Walker said that he didn't. When asked if he heard PO Acevedo say, "You should be glad I am not grabbing you, I will kick your ass," PO Walker said that he didn't. PO Walker said, "As I recall, he said something to that effect. He said that when he came over here, he didn't come out and grab him out of the hallway and harass him."

PO Walker said that PO Acevedo told him that he was suspicious of § 87(2)(b) because he saw him hanging around the vehicle of the car, which was parked at the corner. PO Walker didn't know what the car looked like or where it had been parked. PO Walker said that he didn't know that § 87(2)(b) had been standing next to a car until PO Acevedo told him that once they came back. PO Acevedo said that he saw that § 87(2)(b) had now gone inside building and that he had first noticed § 87(2)(b) hanging around the car when they had driven by there a short while ago.

PO Walker said that § 87(2)(b) wasn't frisked. PO Acevedo and PO Walker didn't talk about frisking § 87(2)(b) or filling out a stop and frisk report. PO Walker said that he wasn't aware that a stop and frisk report wasn't prepared. When first asked if there had been circumstance enough for him to prepare a stop and frisk report, PO Walker said yes. But when asked again, that if he had been in charge of the situation, would he have prepared a stop and frisk report, PO Walker said that he wanted to rephrase and say that he wouldn't have. PO Walker said that he felt that PO Acevedo didn't prepare a stop and frisk report because he just had a conversation to check on the situation and because the time frame was so short. PO Walker said that since PO Acevedo had made the stop, he would have decided whether or not to prepare a stop and frisk report.

### Conclusions and Recommendations

§ 87(2)(g)

§ 87(2)(g)

As far as his statements are concerned, § 87(2)(b) stated that he was standing next to § 87(2)(b)'s brother's car and watching it while § 87(2)(b) went to get the car keys because one of the windows was open. According to PO Acevedo, from the corner of his eye, then in the rear view mirror and also when he drove back, he saw § 87(2)(b) crouch down and get up more than once on the passenger side of a black car. PO Acevedo stated that he wanted to come back to the location because he wanted to observe § 87(2)(b) and see what he was doing. PO Acevedo said that § 87(2)(b) saw him and went into the building. PO Acevedo told § 87(2)(b) that he thought he was breaking into the car.

§ 87(2)(b) made no admission of sitting down or crouching next to the car at any point but he may have moved and looked around the car. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) said that he saw a police car and then since it was raining and since he was cold, he went into the hallway of § 87(2)(b)'s building to ring § 87(2)(b)'s apartment bell. Then, he saw PO Acevedo gesture to him. He didn't go out till PO Acevedo gestured to him again because he didn't know what PO Acevedo wanted. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) PO Acevedo and PO Walker didn't know if it was raining that night. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

According to § 87(2)(b) PO Acevedo and PO Walker, § 87(2)(b)'s brother's car was parked on the right side of the road and was thus closest to PO Walker's side. However, PO Walker stated that he didn't see § 87(2)(b) next to a car and that he saw § 87(2)(b) for the first time when § 87(2)(b) was in the hallway of the building and he and his partner drove back. PO Walker also said that § 87(2)(b) didn't see them. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

As far § 87(2)(b)

s attitude is concerned, PO Acevedo and PO Walker stated that § 87(2)(b) was sucking his teeth, rolling his eyes, shrugging his shoulders, hesitant about saying anything and seemed like he didn't want to listen to anything that PO Acevedo said. § 87(2)(b) didn't say that he was doing any of these things but he also said that he was angry. § 87(2)(g)

§ 87(2)(g)

PO Acevedo stated that he asked § 87(2)(b) what he was doing crouched/slouched by the side of the car and whose car it was. PO Acevedo said that § 87(2)(b) told him that it was his friend's car and that he was watching it. PO Acevedo also said that when he asked § 87(2)(b) where his friend was, § 87(2)(b) didn't answer him. § 87(2)(b) said that he told PO Acevedo that he was watching his friend's car because the window was open. He also told PO Acevedo which building and apartment his friend lived in. When PO Acevedo asked him where he lived and asked him for ID, § 87(2)(b) said that he pointed to his house and gave PO Acevedo his school ID. But since PO Acevedo wanted something with § 87(2)(b)'s address on it, § 87(2)(b) gave him his license.

§ 87(2)(g)

PO Acevedo said that he asked § 87(2)(b) for ID but § 87(2)(b) didn't produce any. PO Acevedo said that he didn't pursue further for ID because he believed § 87(2)(b) when he told PO Acevedo his name. PO Acevedo was unable to say why he believed § 87(2)(b) and only said, "That was how I felt at the time. No specific reason. I believed him at the time."

§ 87(2)(g)

In addition, PO Acevedo stated, "I let him go because after a while when I asked him what apartment he lived in, he said he lived in that building and then he gave me the apartment....At that point, he is telling me he lives here and he is giving me an apartment, I believed that he lived there." PO Acevedo said that he didn't go to § 87(2)(b)'s



| Bar Index | Relative Length (approximate) |
|-----------|-------------------------------|
| 1         | 0.85                          |
| 2         | 0.95                          |
| 3         | 0.90                          |
| 4         | 0.98                          |
| 5         | 0.92                          |
| 6         | 0.96                          |
| 7         | 1.00                          |
| 8         | 0.94                          |
| 9         | 0.88                          |
| 10        | 0.97                          |
| 11        | 0.82                          |
| 12        | 0.75                          |

§ 87(2)(b) said that he understood PO Acevedo telling him to take his hands out of his pockets because he would feel the same way if someone walked towards him with their hands in their pockets. § 87(2)(b) said that PO Acevedo stepped out of the RMP and told him that he had already told him to take his hands out of his pockets. Then, PO Acevedo grabbed § 87(2)(b)'s right hand (between hand and wrist) with his right hand and pushed it away from § 87(2)(b)'s pockets. PO Acevedo said that he told § 87(2)(b) three times to take his hands out of his pockets because his hands kept going into his front pant pockets. PO Acevedo also said that he was scared for his safety because, "I was worried if he had any weapons on him and that he kept putting his hands back in." Nevertheless, when PO Acevedo was initially asked if he grabbed and pushed § 87(2)(b)'s hand away from his pocket, he said that he didn't. But, at the conclusion of the interview, PO Acevedo was asked the same question again in the form of an allegation and his answer then was, "I don't remember." § 87(2)(g)

§ 87(2)(b) PO Walker stated that he didn't fear for his safety due to § 87(2)(b) or § 87(2)(b)'s attitude. § 87(2)(g)

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

In his CCRB interview, PO Acevedo stated that he asked § 87(2)(b) for ID but § 87(2)(b) didn't provide him with ID. PO Acevedo also said that he didn't pursue § 87(2)(b) further for ID because, "I asked him his name and he told me his name and that's it." PO Walker stated during his interview that PO Acevedo asked § 87(2)(b) for ID and § 87(2)(b) hesitantly showed him ID. § 87(2)(b) stated that he showed PO Acevedo ID when he asked for it. § 87(2)(g)

[REDACTED]

§ 87(2)(g) [Redacted]  
[Redacted]  
[Redacted]  
[Redacted] Also, the incident happened on January 19, 2001 and PO Acevedo was interviewed on April 11, 2001 and PO Walker was interviewed on April 20, 2001. § 87(2)(g) [Redacted]  
§ 87(2)(g) [Redacted] (2)  
[Redacted] (g)  
[Redacted]  
[Redacted]  
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| Investigator: | Date: |
| Supervisor:   | Date: |
| Reviewed by:  | Date: |
| Reviewed by:  | Date: |